

HOUSE BILL NO. 292

INTRODUCED BY T. HENRY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A HEALTH CARE PROVIDER TO PRESCRIBE OR DISPENSE MEDICATION WITHOUT AN EXAMINATION FOR A SEXUAL PARTNER OF A PATIENT DIAGNOSED WITH A SEXUALLY TRANSMITTED DISEASE; AND AMENDING SECTIONS 37-2-104, 37-7-103, 50-18-110, AND 50-31-307, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-2-104, MCA, is amended to read:

"37-2-104. Dispensing of drugs by medical practitioners unlawful -- exceptions. (1) Except as otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the dispensing of drugs.

(2) This section does not prohibit:

(a) a medical practitioner from furnishing a patient any drug in an emergency;

(b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical practitioner;

(c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy available to the patient;

(d) the dispensing of drugs occasionally, but not as a usual course of doing business, by a medical practitioner;

(e) a medical practitioner from dispensing drug samples;

(f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered nurse employed by a family planning clinic under contract with the department of public health and human services if the dispensing is in accordance with:

(i) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

(g) the dispensing of a prescription drug for a sexual partner of a person being treated for a sexually transmitted disease if the drug is dispensed in accordance with the provisions of 50-18-110 by a physician,

1 physician assistant, or advanced practice registered nurse with authority to prescribe; or

2 ~~(g)~~(h) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the
3 clinic. The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled
4 substance. The contract physician may not delegate the authority to dispense any drug for which a prescription
5 is required under 21 U.S.C. 353(b)."

6
7 **Section 2.** Section 37-7-103, MCA, is amended to read:

8 **"37-7-103. Exemptions.** Subject only to 37-7-401 and 37-7-402, this chapter does not:

9 (1) subject a person who is licensed in this state to practice medicine, dentistry, or veterinary medicine
10 to inspection by the board, prevent the person from compounding or using drugs, medicines, chemicals, or
11 poisons in the person's practice, or prevent a person who is licensed to practice medicine from furnishing to a
12 patient drugs, medicines, chemicals, or poisons that the person considers proper in the treatment of the patient;

13 (2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

14 (3) prevent the sale of drugs, chemicals, or poisons at either wholesale or retail for use for commercial
15 purposes or in the arts;

16 (4) change any of the provisions of this code relating to the sale of insecticides and fungicides;

17 (5) prevent the sale of common household preparations and other drugs if the stores selling them are
18 licensed under the terms of this chapter;

19 (6) apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts, toilet
20 articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature for use
21 for nonmedicinal purposes;

22 (7) prevent a registered nurse employed by a family planning clinic under contract with the department
23 of public health and human services from dispensing factory prepackaged contraceptives, other than
24 mifepristone, if the dispensing is in accordance with a physician's written protocol specifying the circumstances
25 under which dispensing is appropriate and is in accordance with the board's requirements for labeling, storage,
26 and recordkeeping of drugs; ~~or~~

27 (8) prevent a physician, a physician assistant, or an advanced practice registered nurse with authority
28 to prescribe drugs from dispensing a prescription drug to a sexual partner of a patient being treated for a sexually
29 transmitted disease if the drug is dispensed in accordance with the provisions of 50-18-110; or

30 ~~(8)~~(9) prevent a certified agency from possessing, or a certified euthanasia technician or support

1 personnel under the supervision of the employing veterinarian from administering, any controlled substance
2 authorized by the board of veterinary medicine for the purpose of euthanasia pursuant to Title 37, chapter 18,
3 part 6."

4
5 **Section 3.** Section 50-18-110, MCA, is amended to read:

6 **"50-18-110. ~~Unlawful dispensing~~ Dispensing of drugs for cure or alleviation of sexually**
7 **transmitted disease.** (1) Subject to subsection (2), it is unlawful to prescribe, sell, or recommend any drugs,
8 medicines, or other substances for the cure or alleviation of a sexually transmitted disease except upon
9 prescription signed by a person legally authorized to do so by the pharmacy laws of this state.

10 (2) A physician, a physician assistant, or an advanced practice registered nurse with authority to
11 prescribe drugs may prescribe, dispense, or otherwise furnish prescription antibiotic drugs for a sexual partner
12 of a patient being treated for gonorrhea or chlamydia without examining the sexual partner if the physician,
13 physician assistant, or advanced practice registered nurse:

14 (a) prescribes a single course of treatment;

15 (b) provides written instructions to the patient for the partner's use of the prescription drug; and

16 (c) advises that the partner seek a medical evaluation.

17 (3) A drug prescribed, dispensed, or otherwise furnished under subsection (2) may be delivered by the
18 patient or the patient's agent to the sexual partner for whom the drug was prescribed, dispensed, or otherwise
19 furnished.

20 (4) A prescription drug order written pursuant to subsection (2) is not required to contain the name and
21 address of the patient."

22
23 **Section 4.** Section 50-31-307, MCA, is amended to read:

24 **"50-31-307. Dispensing of prescription drugs.** (1) A drug intended for use by humans that is included
25 in one of the categories in subsection (2) may be dispensed only:

26 (a) upon a written prescription of a practitioner licensed by law to administer the drug;

27 (b) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the
28 pharmacist; or

29 (c) by refilling a written or oral prescription if the refilling is authorized by the practitioner, either in the
30 original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist.

1 (2) A drug must be dispensed as provided in subsection (1) if the drug:

2 (a) is a habit-forming drug to which 50-31-306(1)(d) applies;

3 (b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral
4 measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law
5 to administer the drug; or

6 (c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or
7 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer the drug.

8 (3) If the drug is a factory prepackaged contraceptive, other than mifepristone, it may be dispensed as
9 provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the
10 department of public health and human services pursuant to a physician's written protocol specifying the
11 circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning
12 labeling, storage, and recordkeeping of drugs.

13 (4) If the drug is dispensed in accordance with 50-18-110 for a sexual partner of a person being treated
14 for a sexually transmitted disease, it may be dispensed as provided in subsection (1) of this section or by a
15 physician, physician assistant, or advanced practice registered nurse with authority to prescribe drugs.

16 ~~(4)~~(5) The act of dispensing a drug contrary to the provisions of this section is considered an act that
17 results in a drug being misbranded while held for sale."

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